

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of HAZELL W. JACKSON and U.S. POSTAL SERVICE,
GENERAL MAIL FACILITY, Richmond, VA

*Docket No. 99-1819; Submitted on the Record;
Issued September 5, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, A. PETER KANJORSKI,
VALERIE D. EVANS-HARRELL

The issue is whether appellant has established that his problems with sleeping, seeing and talking occurred in the performance of duty.

On May 2, 1998 appellant, then a 51-year-old clerk, filed an occupational disease claim for problems with sleeping, seeing and talking that he attributed to mold in the building in which he worked. By letter dated September 24, 1998, the Office of Workers' Compensation Programs advised appellant that it needed a detailed description of the employment-related exposure, to which he attributed his illness and a medical report containing an explanation as to how exposure in his employment contributed to his condition.

By decision dated February 16, 1999, the Office found that appellant had not established that his conditions were causally related to his employment.

The Board finds that appellant has not established that his problems with sleeping, seeing and talking occurred in the performance of duty.

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that his condition was caused or adversely affected by his employment. As part of this burden he must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relation. The mere fact that a disease manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the disease became apparent during a period of employment, nor the belief of appellant that the disease was caused or aggravated by employment conditions, is sufficient to establish causal relation.¹

¹ *Froilan Negron Marrero*, 33 ECAB 796 (1982).

The only medical evidence regarding appellant's sleeping problem is a May 19, 1998 report from Kathe G. Henke, Ph.D., stating that appellant had been "diagnosed with a medical condition known as obstructive sleep apnea." This report did not indicate this condition was in any way related to appellant's employment. Dr. Barry K. Feinstein, in a report dated May 7, 1998, noted that appellant had a sudden onset of decreased vision in August 1997, and that appellant believed that this and his other problems were related to his exposure to dust and mold at the employing establishment. Dr. Feinstein, however, did not attribute this decrease in vision to appellant's employment, but instead noted that there was a question of whether appellant had a transient ischemic attack or a minor cerebral vascular accident at that time.

In his May 7, 1998 report, Dr. Feinstein diagnosed allergic rhinitis and secondary sinus congestion, and noted that appellant's allergy testing was positive for mold spores and grass pollens. On the question of causal relationship, he stated, "As to the question of whether the environment at the [employing establishment] facility actually caused symptoms, this is a question that is certainly difficult to answer. Certainly, allergy symptoms can become apparent at any age and they can certainly cause considerable nasal and sinus problems." In a report dated October 26, 1998, Dr. Feinstein noted that appellant had been transferred to another facility and was doing much better. He also noted that appellant's allergy testing showed "significant sensitivities to mold spores but not dust." In this report, Dr. Feinstein concluded, "An actual cause and effect link is difficult to make with this particular case. It seems likely, however, that the decrease in mold concentration from an old facility to a new facility may make the difference in how he feels although certainly there are other potential factors involved including psychological ones."

The reports from Dr. Feinstein are not sufficient to meet appellant's burden of proof. He did not support causal relationship to a reasonable degree of medical certainty,² and even Dr. Feinstein's equivocal support of causal relationship was predicated on the presence of significant mold exposure at the employing establishment, which has not been factually established. Appellant has not met his burden of proof.

² See *Joseph T. Gulla*, 36 ECAB 516 (1985).

The decision of the Office of Workers' Compensation Programs dated February 16, 1999 is affirmed.

Dated, Washington, D.C.
September 5, 2000

Michael J. Walsh
Chairman

A. Peter Kanjorski
Alternate Member

Valerie D. Evans-Harrell
Alternate Member